

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GAYLE A. KERN, *et al.*, )  
vs. )  
SHERYL MOULTON, )  
Plaintiffs, )  
Defendant. )  
)  
Case No. 3:11-cv-00296-RCJ-PAL  
**ORDER**

On December 8, 2011, the court set this matter for a scheduling and status conference for December 13, 2011, at 11:00 a.m., permitting each party to appear telephonically. Michael Pintar appeared telephonically on behalf of the Plaintiffs. Defendant, who is appearing *pro se*, did not leave a telephone number with the undersigned's courtroom deputy by 4:00 p.m., December 12, 2011, as instructed in the notice of hearing. See Notice of Hearing (Dkt. #62). The courtroom administrator attempted to reach the Defendant telephonically at the number she provided on the court's docket. Defendant did not answer and a voice mail message was left. A few minutes later, the Defendant called the undersigned's chambers and spoke with my judicial assistant who transferred her call into the courtroom. Ms. Moulton advised the courtroom administrator that she did not receive notice of the hearing, believed her due process rights were violated, and was refusing to participate in the hearing. The case was called and a record made of the Defendant's call and refusal to participate.

The court set this case for a scheduling and status conference because the parties had not submitted a proposed discovery plan and scheduling order. On November 7, 2011 the district judge held a hearing on Defendant's motion to quash service of process, dismiss the complaint, or transfer the case to the Northern District of California. The Minutes of Proceedings indicated the district judge intended to deny the motions but would enter a written order. A written order was entered December 7,

1 2011 which prompted this court to set the matter for a scheduling conference.

2 At today's status and scheduling conference counsel for Plaintiff advised the court that, although  
3 the district judge had decided several of Defendant's pending motions, there were three additional  
4 dispositive motions under submission. Defendant has not yet filed an answer, and therefore, no  
5 proposed discovery plan and scheduling order was submitted to the court. As a result, the undersigned  
6 advised counsel that the matter would be taken off calendar.

7 A review of the docket reflects that Defendant's Motion for Leave to Proceed Anonymously  
8 (Dkt. #42), Defendant's Motion to Dismiss (Dkt. #45) and Defendant's Motion for Recusal of the  
9 District Judge (Dkt. #47) are now fully briefed and under submission to the district judge. The docket  
10 also reflects that the Defendant was electronically served by the Clerk of Court with the notice of  
11 today's hearing at four different e-mail addresses which she has provided.

12 **IT IS ORDERED** the parties shall submit a proposed discovery plan and scheduling order  
13 within 30 days of decision of the Defendant's pending Motion to Dismiss Pursuant to Noerr-Pennington  
14 Doctrine (Dkt. #45), or Defendant's answer, whichever date is earlier.

15 Dated this 13<sup>th</sup> day of December, 2011.

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18 Peggy A. Teer  
19 United States Magistrate Judge  
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